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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/604,476

07/24/2003

Mark Ruttenberg

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10/05/2006

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EXAMINER

BODDIE, WILLIAM

ART UNIT

PAPER NUMBER

2629

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/604,476 | RUTTENBERG, MARK | |
| | Examiner | Art Unit | |
| | William Boddie | 2629 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 31st, 2006 has been entered.

Response to Arguments

2. Applicant's arguments filed August 31st, 2006 have been fully considered but they are not persuasive. See the below amended rejections to reflect the amendments to the claims as well as the rejections of newly added claims 27-29.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 29 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claim 29 calls for the mount to connect the polygonal display to a pole. Claim 29 is dependent upon claim 11, which details limitations for the embodiments seen in figures 8-11 of the application. Page 11 and 12 in the Applicant's Remarks, filed August 31st, 2006, state, "the central pole shown in the drawing figures is

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the preferred embodiment of the mount.” Using this definition, claim 29 now appears to call for the pole (mount) to connect the polygonal display to a pole. The description of the mount is thus indefinite, as it is unclear what item in the figures 8-11 can be labeled the mount.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 7-10, 13-16, 21-22 and 24-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Mankins et al. (US 6,850,209).

With respect to claim 1, Mankins discloses, an advertising display comprising: a plurality of display panels including at least one first display panel (1036 in fig. 42), at least one second display panel (second exploded side display in fig. 42; col. 55, lines 39-42) and at least one third display panel (back panel 144 in fig. 42), the plurality of display panels cooperatively forming a polygonal display (triangular in fig. 43), wherein the plurality of display panels are operatively connected to a support frame (1026, 1035, 1032 etc. in fig. 42), the support frame being operatively connected to a mount (1408 in figs. 67-68), wherein the mount is adapted and configured to operatively connect the polygonal display to a support mechanism (vehicle in fig. 67; col. 55, lines 29-36) in a

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manner such that the polygon display can be supported by and from the support mechanism solely via the mount (clear from figs. 67-68); with at least one of the plurality of display panels having an electronic panel display exposed for display of electronic visual advertising information thereon (col. 16, lines 51-57) and any remaining display panels of the plurality of display panels can display visual advertising information (col. 59, lines 23-27), wherein the at least one first display panel, the at least one second display panel and the at least one third display panel are facing generally in different directions (clear from fig. 43); and a source of electronic advertising information (col. 16, lines 58-67) operably associated with the at least one electronic display panel for displaying the electronic visual advertising information on the at least one electronic panel display.

With respect to claim 2, Mankins discloses the advertising display as set forth in claim 1 (see above), wherein the visual advertising information includes at least one printed advertisement (col. 59, lines 23-27).

With respect to claim 3, Mankins discloses, the advertising display as set forth in claim 1 (see above), wherein the polygonal display is located in an elevated position (clear from figs. 3-6; col. 24, lines 8-12) in a retail outlet (col. 36, lines 9-27).

With respect to claim 7, Mankins discloses, the advertising display as set forth in claim 1 (see above), wherein the support frame (1026, 1035, 1032 etc. in fig. 42) includes a plurality of angle brackets (1025 in fig. 42; col. 55, lines 56-58).

With respect to claim 8, Mankins discloses, the advertising display as set forth in claim 1 (see above) wherein the support frame includes a plurality of wall members (each display panel 1036 is seated in a wall member; one for each side of the triangle).

With respect to claim 9, Mankins discloses, the advertising display as set forth in claim 8 (see above) wherein the plurality of wall members each include a top flange portion located on the top of each of the plurality of wall members and a bottom flange portion located on the bottom of each of the plurality of wall members (note the flanges on 1023 in fig. 42; col. 55, lines 46-50)

With respect to claim 10, Mankins discloses, the advertising display as set forth in claim 1 (see above), further including at least one attachment mechanism connected to the at least one electronic panel display and connected to the support frame (1035 in fig. 42).

With respect to claim 13, Mankins discloses, the advertising display as set forth in claim 1 (see above), wherein the electronic advertising information for the at least one electronic display panel is digitally stored (the information is digitally cached locally in the device; col. 16, lines 58-67)

With respect to claim 14, Mankins discloses, the advertising display as set forth in claim 1 (see above), wherein the source of the electronic advertising information for the at least one electronic display panel is from a global computer network (col. 4, lines 53-61).

With respect to claim 15, Mankins discloses, the advertising display as set forth in claim 1 (see above), further including a plurality of the advertising displays connected

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to the source of electronic advertising information (clear from fig. 18), wherein the plurality of electronic advertising displays are positioned in a spaced apart relationship (clear from fig. 43).

With respect to claim 16, Mankins discloses, the advertising display as set forth in claim 15, wherein the source of advertising information includes digitally stored advertising information provided to the plurality of advertising displays (clear from fig. 18), wherein the plurality of advertising displays (panel 1-8 in fig. 45) are operatively connected to at least one splitter (1042 in fig. 45), wherein the at least one splitter is operatively connected to at least one video receiver (1035 in fig. 45), wherein the at least one video receiver is cooperatively connected to at least one video transmitter (176 in fig. 18), wherein the at least one video transmitter is operatively connected to at least one processor (350 in fig. 18) that utilizes the digitally stored advertising information.

With respect to claim 21, claim 21 is merely a method claim reciting the identical limitations of claim 1. Therefore claim 21 is rejected on the same merits shown above in claim 1.

With respect to claim 22, claim 22 is merely a method claim reciting the identical limitations of claim 3. Therefore claim 22 is rejected on the same merits shown above in claim 3.

With respect to claim 24, claim 24 is merely a method claim reciting the identical limitations of claim 15. Therefore claim 24 is rejected on the same merits shown above in claim 15.

With respect to claim 25, claim 25 is merely a method claim reciting the identical limitations of claim 16. Therefore claim 25 is rejected on the same merits shown above in claim 16.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-5 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Kim (US 2004/0046704).

With respect to claim 4, Mankins discloses, the advertising display as set forth in claim 3 (see above).

Mankins does not expressly disclose, wherein at least one of the display panels of the plurality of display panels is moveable relative to the mount.

Kim discloses, a three-panel display system (fig. 1) wherein at least one of the display panels (6 in fig. 6) of the plurality of display panels is movable (note the ball joint which allows movement of the panel) relative to a mount (8 in fig. 6).

Kim and Mankins are analogous art because they are both drawn to plural display systems and their mounting.

At the time of the invention it would have been obvious to one of ordinary skill in the art to incorporate the use of the ball joint, taught by Kim, to movable attach the display panels to the support frame of Mankins.

The motivation for doing so would have been to provide the best angle of vision the viewer (Kim; para. 42).

Therefore it would have been obvious to combine Mankins with Kim for the benefit of a better angle of vision to the viewer to obtain the invention as specified in claim 4.

With respect to claim 5, Mankins discloses, the advertising display as set forth in claim 3 (see above).

Mankins does not expressly disclose, that the display panels are moveable relative to one another.

Kim discloses, a three-panel display system (fig. 1) wherein at least one of the display panels (6 in fig. 5) of the plurality of display panels is movable (note the ball joint which allows movement of the panel) relative to a other display panels (note the different panels in fig. 5).

At the time of the invention it would have been obvious to one of ordinary skill in the art to incorporate the use of the ball joint, taught by Kim, to movable attach the display panels to the support frame of Mankins.

The motivation for doing so would have been to provide the best angle of vision the viewer (Kim; para. 42).

Therefore it would have been obvious to combine Mankins with Kim for the benefit of a better angle of vision to the viewer to obtain the invention as specified in claim 5.

With respect to claim 23, claim 23 is merely a method claim reciting the identical limitations of claim 5. Therefore claim 23 is rejected on the same merits show above in claim 5.

9. Claims 11-12 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moscovitch et al. (US 6,343,006) in view of Mankins et al. (US 6,580,209).

With respect to claim 11, Moscovitch discloses, a plurality of display panels (12 in fig. 30) including at least one first display panel, at least one second display panel and at least one third display panel, the plurality of display panels cooperatively forming a polygonal display (triangular) with at least one of the plurality of display panels having an electronic panel display (all three have electronic panels) exposed for display of electronic visual information thereon and any remaining display panels of the plurality of display panels can display visual information, wherein the at least one first display panel, the at least one second display panel and the at least one third display panel are facing generally in different directions (clear from fig. 30); a source of electronic information (c in fig. 29) operably associated with the at least one electronic display panel for displaying the electronic visual advertising information on the at least one electronic panel display; and several arms (130 in fig. 32) that supportably connect the displays panels to a mount (pole, 145 in fig. 31), the mount being adapted and configured to operatively connected the polygonal display (12s in fig. 30) to a support mechanism (legs in figs. 30-31), and the displays.

Moscovitch does not expressly disclose attaching pivot means to the arms of the figure 30-32 embodiment.

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Moscovitch further discloses, a ball and socket joint (30 in fig. 15) to pivot the attached displays.

At the time of the invention it would have been obvious to include a ball and socket joint, taught in figure 15, in the tripod embodiment of figures 30-32 (note the use of locking V channels in both embodiments)

The motivation for doing so would have been to better orient the displays for viewing (Moscovitch; col. 1, lines 54-57).

Moscovitch does not expressly disclose, displaying advertising and at least one panel of printed advertising information on the displays.

Mankins discloses, displaying advertising information on the displays (col. 16, lines 51-57) with at least one panel being printed advertising (col. 59, lines 23-27).

Moscovitch and Mankins are analogous art because they are both from the same field of endeavor namely, mounting multi-panel display devices.

At the time of the invention it would have been obvious to display advertising information with at least one printed ad on the displays of Moscovitch, as taught by Mankins.

The motivation for doing so would have been to present the advertising in multiple directions.

Therefore it would have been obvious to combine Mankins with Moscovitch for the benefit of multi-direction advertising to obtain the invention as specified in claim 11.

With respect to claim 12, Mankins and Moscovitch disclose, the advertising display as set forth in claim 11 (see above).

Moscovitch further discloses, wherein at least one of the first arm, the second arm, and the third arm comprises components selected from the group consisting of flexible tubing, shims and at least one swivel joint (ball and socket joint; 30 in fig. 15).

With respect to claim 29, Mankins and Moscovitch disclose, the advertising display as set forth in claim 11 (see above).

Moscovitch further discloses, wherein the mount is adapted and configured to operatively connect the polygonal display to a pole (145 in fig. 31) in a manner such that the polygon display can be supported by and from the pole solely via the mount (clear from figs. 30-32).

10. Claims 17-18, 20 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Goldman (US 4,679,341).

With respect to claim 17, Mankins discloses, the advertising display as set forth in claim 1 (see above), further including an exterior shell (1402 in figs. 67-68), having at least one opening therein (1404 in fig. 72) and including printed advertisements in lieu of electronic displays.

Mankins does not expressly disclose at least one backing member.

Goldman discloses, a multiple panel advertising display including an exterior shell (11 in fig. 3), having at least one opening therein (18a-c in fig. 3) and positioned over at least one backing member (12 in fig. 3), wherein the at least one backing member is positioned adjacent to a support frame (40 in fig. 3) and the exterior shell and the at least one backing member are operatively connected together (fig. 4) to form a pocket for receiving a removable printed advertisement (27 in fig. 1) so that the

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printed advertisement can be viewed through the at least one opening in the exterior shell (clear from fig. 1).

Goldman and Mankins are analogous art because they are both drawn to the same field of endeavor namely, design and construction of multi-panel advertising displays.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace one side of the triangular electronic display of Mankins with a printed advertisement backing member as taught by Goldman.

The motivation for doing so would have been to lessen the complexity of the device as well as to lower the cost (Goldman; col. 1, lines 39-44).

Therefore it would have been obvious to combine Goldman with Mankins for the benefit of a lower total cost to obtain the invention as specified in claim 17.

With respect to claim 18, Mankins and Goldman disclose, the advertising display as set forth in claim 17 (see above).

Mankins further discloses, wherein the exterior shell includes polymeric material (col. 55, lines 24-27).

Goldman further discloses, wherein the backing member includes polymeric material (col. 5, lines 60-64).

With respect to claim 20, Mankins and Goldman disclose, the electronic advertising display as set forth in claim 17 (see above).

Goldman further discloses, wherein the at least one backing member (12 in fig. 3) is attached to a u-shaped frame (30-33 in fig. 3), wherein the u-shaped frame is

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attached to the exterior shell (clear from fig. 2) and wherein the backing member further includes at least one stop for limiting longitudinal movement of the exterior shell in relationship to the support frame (should be clear that 30, 33 and 36 in fig. 3 limit the movement of the exterior shell, 11).

With respect to claim 26, claim 26 is merely a method claim reciting the identical limitations of claim 17. Therefore claim 26 is rejected on the same merits show above in claim 17.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Goldman (US 4,679,341) and further in view of Gebka (5,458,307).

With respect to claim 19, Mankins and Goldman disclose, the advertising display as set forth in claim 18 (see above).

Neither Mankins nor Goldman expressly discloses, wherein the polymeric material includes moderately expanded, rigid polyvinyl chloride material.

The use of rigid pvc as a structural material is especially prevalent in the art. One such example is Gebka, which discloses the use of rigid pvc (col. 2, lines 33-42).

Gebka, Mankins and Goldman are all analogous art because they are all from the same field of endeavor namely, multi-panel advertising displays.

At the time of the invention it would have been obvious to use the rigid pvc taught by Gebka in the construction of the plastic shell and backing member of Mankins and Goldman.

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The motivation for doing so would have been the prevalence of rigid pvc in the art as an encasement and structure material in addition to its water resistance.

Therefore it would have been obvious to combine Gebka with Mankins&Goldman for the benefit of water resistance to obtain the invention as specified in claim 19.

12. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankins et al. (US 6,580,209) in view of Pogue (US 3,167,874).

With respect to claims 27-28, Mankins discloses, the advertising display as set forth in claim 1 (see above), wherein the display system is mounted in retail environment (344 in fig. 18; col. 36, lines 9-27).

Mankins does not expressly disclose wherein the mount is adapted and configured to operatively connect the polygonal display to a pipe in a manner such that the polygon display can be supported by and from the pole solely via the mount.

Pogue discloses, a polygon advertising display comprising a mount (14, 15 in fig. 2) that is adapted and configured to operatively connect the polygonal display (12 in fig. 1-3) to a pipe (10 in fig. 1-4; col. 2, lines 2-20).

Pogue and Mankins are analogous art because they are both from the same field of endeavor namely polygonal advertising displays.

At the time of the invention it would have been obvious to one of ordinary skill in the art to replace the mount of Mankins with that of Pogue and subsequently mounting the display on a pipe.

The motivation for doing so would have been the smaller storage space needed for the display (Pogue; col. 1, lines 20-20) as well as providing an eye-catching sign display (Pogue; col. 2, lines 17-20).

Therefore it would have been obvious to combine Pogue and Mankins for the benefit of easier transportation to obtain the invention as specified in claims 27-28.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Will Boddie whose telephone number is (571) 272-0666. The examiner can normally be reached on Monday through Friday, 7:30 - 4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wlb
9/25/06

AMR A. AWAD
SUPERVISORY PATENT EXAMINER
